

Nuclear Regulatory Commission

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Commission as a part of the decision in the event of review.

(d) If the presiding officer determines that an unclassified statement does not adequately present the information contained in the classified matter which is relevant and material to the issues in the proceeding, he shall include his reasons in his determination. This determination shall be included as part of the record and will be considered by the Commission in the event of review of the determination.

(e) The presiding officer may postpone all or part of the procedures established in this section until the reception of all other evidence has been completed. Service of the unclassified statement required in paragraph (a) of this section shall not be postponed if any party does not have access to Restricted Data or other National Security Information.

§ 2.911 Admissibility of restricted data or other national security information.

A presiding officer shall not receive any Restricted Data or other National Security Information in evidence unless:

(a) The relevance and materiality of the Restricted Data or other National Security Information to the issues in the proceeding, and its competence, are clearly established; and

(b) The exclusion of the Restricted Data or other National Security Information would prejudice the interests of a party or the public interest.

§ 2.912 Weight to be attached to classified evidence.

In considering the weight and effect of any Restricted Data or other National Security Information received in evidence to which an interested party has not had opportunity to receive access, the presiding officer and the Commission shall give to such evidence such weight as is appropriate under the circumstances, taking into consideration any lack of opportunity to rebut or impeach the evidence.

§ 2.913 Review of Restricted Data or other National Security Information received in evidence.

At the close of the reception of evidence, the presiding officer shall review the record and shall direct that any Restricted Data or other National Security Information be expunged from the record where such expunction would not prejudice the interests of a party or the public interest. Such directions by the presiding officer will be considered by the Commission in the event of review of the determinations of the presiding officer.

Subpart J—Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository

SOURCE: 54 FR 14944, Apr. 14, 1989, unless otherwise noted.

§ 2.1000 Scope of subpart.

The rules in this subpart govern the procedure for applications for a license to receive and possess high-level radioactive waste at a geologic repository operations area noticed pursuant to § 2.101(f)(8) or § 2.105(a)(5) of this part. The procedures in this subpart take precedence over the 10 CFR part 2, subpart G, rules of general applicability, except for the following provisions: §§ 2.702, 2.703, 2.704, 2.707, 2.709, 2.711, 2.713, 2.715, 2.715a, 2.717, 2.718, 2.720, 2.721, 2.722, 2.732, 2.733, 2.734, 2.742, 2.743, 2.750, 2.751, 2.753, 2.754, 2.755, 2.756, 2.757, 2.758, 2.759, 2.760, 2.761, 2.763, 2.770, 2.771, 2.772, 2.780, 2.781, 2.786, 2.788, and 2.790.

[56 FR 29410, June 27, 1991]

§ 2.1001 Definitions.

ASCII File means a computerized text file conforming to the American Standard Code for Information Interchange which represent characters and symbols.

Bibliographic header means the minimum series of descriptive fields that a

potential party, interested governmental participant, or party must submit with a document or other material. The bibliographic header fields are a subset of the fields in the full header.

Circulated draft means a nonfinal document circulated for supervisory concurrence or signature in which the original author or others in the concurrence process have non-concurred. A “circulated draft” meeting the above criterion includes a draft of a document that eventually becomes a final document, and a draft of a document that does not become a final document due to either a decision not to finalize the document or the passage of a substantial period of time in which no action has been taken on the document.

Document means any written, printed, recorded, magnetic, graphic matter, or other documentary material, regardless of form or characteristic.

Documentary material means any material or other information that is relevant to, or likely to lead to the discovery of information that is relevant to, the licensing of the likely candidate site for a geologic repository. The scope of documentary material shall be guided by the topical guidelines in the applicable NRC Regulatory Guide.

DOE means the U.S. Department of Energy or its duly authorized representatives.

Full header means the series of descriptive fields and subject terms given to a document or other material.

Image means a visual likeness of a document, presented on a paper copy, microform, or a bit-map on optical or magnetic media.

Interested governmental participant means any person admitted under § 2.715(c) of this part to the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter.

LSS Administrator means the person within the U.S. Nuclear Regulatory Commission responsible for administration, management, and operation of the Licensing Support System. The LSS Administrator shall not be in any organizational unit that either represents the U.S. Nuclear Regulatory Commission staff as a party to the

high-level waste licensing proceeding or is a part of the management chain reporting to the Director of the Office of Nuclear Material Safety and Safeguards. For purposes of this subpart the organizational unit within the NRC selected to be the LSS Administrator shall not be considered to be a party to the proceeding.

Marginalia means handwritten, printed, or other types of notations added to a document excluding underlining and highlighting.

NRC means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

Party for the purpose of this subpart means the DOE, the NRC staff, the host State and any affected Indian Tribe in accordance with § 60.63(a) of this chapter, and a person admitted under § 2.1014 of this subpart to the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter; provided that a host State or affected Indian Tribe shall file a list of contentions in accordance with the provisions of §§ 2.1014(a)(2) (ii) and (iii) of this subpart.

Personal record means a document in the possession of an individual associated with a party, interested governmental participant, or potential party that was not required to be created or retained by the party, interested governmental participant, or potential party, and can be retained or discarded at the possessor’s sole discretion, or documents of a personal nature that are not associated with any business of the party, interested governmental participant, or potential party.

Potential party means any person who, during the period before the issuance of the first pre-hearing conference order under § 2.1021(d) of this subpart, is granted access to the Licensing Support System and who consents to comply with the regulations set forth in subpart J of this part, including the authority of the Pre-License Application Presiding Officer designated pursuant to § 2.1010 of this subpart.

Pre-license application phase means the time period before the license application to receive and possess high-level radioactive waste at a geologic

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repository operations area is docketed under section 2.101(f)(3) of this part.

Pre-License Application Presiding Officer means one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the pre-license application phase with jurisdiction specified at the time of designation.

Preliminary draft means any nonfinal document that is not a circulated draft.

Presiding Officer means one or more members of the Commission, or an atomic safety and licensing board, or a named officer who has been delegated final authority in the matter, designated in the notice of hearing to preside.

Searchable full text means the electronic indexed entry of a document in ASCII into the Licensing Support System that allows the identification of specific words or groups of words within a text file.

[54 FR 14944, Apr. 14, 1989, as amended at 56 FR 7795, Feb. 26, 1991]

§ 2.1002 High-level waste Licensing Support System.

(a) The Licensing Support System is an electronic information management system containing the documentary material of the DOE and its contractors, and the documentary material of all other parties, interested governmental participants and potential parties and their contractors. Access to the Licensing Support System by the parties, interested governmental participants, and potential parties provides the document discovery in the proceeding. The Licensing Support System provides for the electronic transmission of filings by the parties during the high-level waste proceeding, and orders and decisions of the Commission and Commission adjudicatory boards related to the proceeding.

(b) The Licensing Support System shall include documentary material not privileged under § 2.1006 or excluded under § 2.1005 of this subpart.

(c) The participation of the host State in the Licensing Support System during the pre-license application phase shall not have any effect on the State's exercise of its disapproval

rights under section 116(b)(2) of the Nuclear Waste Policy Act, as amended, 42 U.S.C. 10136(b)(2).

(d) This subpart shall not affect any independent right of a potential party, interested governmental participant or party to receive information.

§ 2.1003 Submission of material to the LSS.

(a) Subject to the exclusions in § 2.1005 of this subpart and paragraphs (c) and (d) of this section, each potential party, interested governmental participant or party, with the exception of the DOE and the NRC, shall submit to the LSS Administrator—

(1) Subject to paragraph (a)(3) of this section, an ASCII file, an image, and a bibliographic header, reasonably contemporaneous with its creation or acquisition, for all documentary material (including circulated drafts but excluding preliminary drafts) generated by, or at the direction of, or acquired by, a potential party, interested governmental participant, or party after the date on which such potential party, interested governmental participant or party is given access to the Licensing Support System.

(2) An image, a bibliographic header, and, if available, an ASCII file, no later than six months before the license application is submitted under § 60.22 of this chapter, for all documentary material (including circulated drafts but excluding preliminary drafts), generated by, or at the direction of, or acquired by, a potential party, interested governmental participant, or party, on or before the date on which such potential party, interested governmental participant, or party was given access to the Licensing Support System.

(3) An image and bibliographic header for documentary material included under paragraphs (a)(1) of this section that were acquired from a person that is not a potential party, party, or interested governmental participant.

(b) Subject to the exclusions in § 2.1005 of this subpart, and subject to paragraphs (c) and (d) of this section, the DOE and the NRC shall submit to the LSS Administrator—